

E-Filed 1/12/2007

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

SIZZLER USA RESTAURANTS, INC.,

Defendant.

Case Number C 06-6142 JF (PVT)

ORDER¹ GRANTING MOTION FOR
LEAVE TO AMEND

[re: docket no. 3]

Applicant-intervenor Patricia Huizache (“Huizache”) moves for leave to intervene. Plaintiff Equal Employment Opportunity Commission (“EEOC”) has filed a statement of non-opposition to the motion. The Court heard oral argument on January 12, 2007. For the reasons discussed below, the Court will grant the motion.

I. BACKGROUND

On September 29, 2006, EEOC filed a complaint against Sizzler, alleging that it subjected Huizache to sex and national origin discrimination in violation of Title VII of the Civil

¹ This disposition is not designated for publication and may not be cited.

1 Rights Act of 1964, 42 U.S.C. §2000e-2(a), which led to her constructive discharge on October
2 16, 2004.

3 On December 8, 2006, Huizache moved for leave to intervene and submitted a proposed
4 complaint in intervention. The complaint in intervention asserts a claim under Title VII and a
5 claim under Cal. Gov. Code § 12900 et seq. Huizache states that this action arises from her
6 complaints made to the EEOC. Huizache states that EEOC issued a determination of
7 discrimination on November 17, 2005, and that she also received a right to sue letter from the
8 Department of Fair Employment and Housing of the State of California.

9 II. LEGAL STANDARD

10 “Upon timely application anyone shall be permitted to intervene in an action: (1) when a
11 statute of the United States confers an unconditional right to intervene . . .” Fed. R. Civ. P.
12 24(a). 42 U.S.C. § 2000e-5(f)(1) provides, in part, that “[t]he person or persons aggrieved shall
13 have the right to intervene in a civil action brought by the Commission.”

14 III. DISCUSSION

15 Huizache moved for leave to intervene within three months of the filing of the EEOC’s
16 complaint. Sizzler answered the complaint on January 5, 2007, but had not filed a responsive
17 pleading prior to the filing of the Huizache’s motion. The Court concludes that the motion is
18 timely. 42 U.S.C. § 2000e-5(f)(1) confers an unconditional right to intervene on Huizache since
19 she is the aggrieved party in this matter. Counsel for Sizzler stated at oral argument that he had
20 reviewed the motion and does not oppose it. Accordingly, the Court will grant the motion and
21 will accept the Complaint in Intervention, filed as Ex. A to the Declaration of Eric C. Shaw.

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23 IT IS SO ORDERED.

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25 DATED: January 12, 2007.

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JEREMY FOGEL
United States District Judge

1 This Order has been served upon the following persons:

2 Glen H. Mertens ghm@amclaw.com

3 David F. Offen-Brown David.Offen-Brown@eeoc.gov

4 Linda S. Ordonio-Dixon linda.ordonio-dixon@eeoc.gov

5 Eric Carroll Shaw eric@shawesq.com

6 William Robert Tamayo william.tamayo@eeoc.gov, pat.tickler@eeoc.gov